IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MR JUSTICE BILAL NAZKI
and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO.10078 of 2004

Between:
M/s Jayam Automobiles, Dr.No.76-14-226/4,
Ground Floor Grambay Road, Bhavanipuram,
Vijayawada, represented by its proprietor,
K.c.Malayalam, S/o. Kungumam,
aged about 43 years, Krishna District. **..... PETITIONER**

AND

1.The Chief Controller of Stores, APSRTC,
Musheerabad Circle, Hyderabad
2.The Controller of Stores, APSRTC, Uppal, Hyderabad
3.The Controller of Stores, APSRTC, Cuddapah Cuddapah District.
4.The Controller of Stores, APSRTC, Vijayanagaram
5.The Controller of Stores, APSRTC, Vijayawada, Krishna District.
6.The Controller of Stores, APSRTC, Karimnagar.
7.The Assistant Commissioner of CT (LTU),
Secunderabad Division, O/o The Deputy Commissioner (CT),
Secunderabad Division, Secunderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ order or direction more particularly in the nature of writ of mandamus declaring the action of the respondents namely the controllers of stores APSRTC, Uppal, Cuddapah, Vijayanagaram, Vijayawada, Karimnagar seeking to levy and collection of Tax @ 12% on the sale of second hand vehicles being sold to the petitioner in terms of Auction-cum-Tender Vide Nos.2403 dated 22.4.2004, 28.4.2004, 6.5.2004, 20.5.2004, 27.5.2004 as illegal, arbitrary and without authority of law and contrary to the judgment of this Hon'ble Court in 30 APSTJ Pg.217 violating Article 227 of the Constitution of India

and grant such other relief or reliefs.

For the Petitioner: MR.M.V.J.K.KUMAR, Advocate.

For the Respondents: MR.VENKATESWARLU POSANI, Advocates.

The Court made the following :

ORDER: (PER SRI BN, J)

The petitioner contends that he has purchased some unserviceable vehicles from APSRTC and according to him he is assessable at 1 per cent for sales tax whereas the Department contended that the tax has to be levied at 12 per cent. The assessment is yet to be made. In similar matters earlier, this Court has disposed of a writ petition, directing the petitioner to pay the tax at 1 per cent and furnish a bank guarantee for remaining 11 per cent in favour of the APSRTC. Following that judgment, we also dispose of this writ petition with the same directions with a modification that the Bank guarantee shall be given by any nationalized bank at Vijayawada in favour of the assessing authority and not the APSRTC and on such deposit, the Respondents No.1 to 6 shall release the vehicles.

Writ Petition is accordingly disposed of. No costs.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

Note:
CC in two days
(B/O)
LUR

Copy to:

1.The Chief Controller of Stores, APSRTC,
Musheerabad Circle, Hyderabad
2.The Controller of Stores, APSRTC, Uppal, Hyderabad
3.The Controller of Stores, APSRTC, Cuddapah Cuddapah District.
4.The Controller of Stores, APSRTC, Vijayanagaram
5.The Controller of Stores, APSRTC, Vijayawada, Krishna District.
6.The Controller of Stores, APSRTC, Karimnagar.
7.The Assistant Commissioner of CT (LTU),
Secunderabad Division, O/o The Deputy Commissioner (CT),
Secunderabad Division, Secunderabad.
8.Two CD copies